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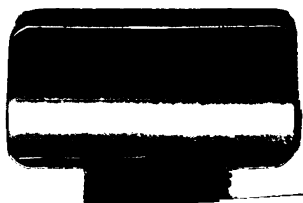
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ANNUAL MESSAGE
P. H. LESLIE
GOVERNOR OF KENTUCKY
DEC. SESSION 1873.



Kentucky. Governor

MESSAGE

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OF

GOV. PRESTON H. LESLIE,

TO THE

GENERAL ASSEMBLY OF KENTUCKY,

DECEMBER 1, 1873.

REGULAR SESSION OF THE LEGISLATURE OF 1873-'4.

FRANKFORT, KY.:

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S. I. M. MAJOR, PUBLIC PRINTER.

1873.

GOVERNOR'S MESSAGE.

Fellow-Citizens of the Senate and House of Representatives:

In welcoming you to the Capital of the State in regular session, I congratulate you that you meet under auspices comparatively so favorable. While some portions of our country have been scourged with pestilence, and financial distress has prevailed in others, our own people have, in the main, been blessed with health, and are free from other embarrassment than that which results from depression at the money centers. Seasonable harvests and average crops have rewarded the labor of the past year, giving with other blessings abundant cause of gratitude to a benign Providence.

I regret to say that, while the general observance of the laws has been commendable, yet in certain localities of the Commonwealth deeds of violence have been committed with such evidence of organization and pernicious design as to call for special condemnation. I give the subject the first prominence in this message, as well to invite your most earnest attention as to indicate my purpose and desire to lend the whole weight of my official and personal influence towards the suppression of an evil which has too long brought shame to us at home and reproach upon us abroad.

It matters little what may have been the origin of this form of lawlessness for which, in its incipency, some have claimed merit as intended to correct abuses and crimes springing from the unsettled condition of affairs at the close of the war. It is enough to know that any expedient to redress real or supposed grievances other than as provided by the statutes is wrong, and not to be justified by any argument that regards law as the truest foundation and safeguard for society. The history of all such combinations is, that however worthy may be the original object, or however deserving its authors, they degenerate in time into lawlessness worse than that which they were designed to suppress, and, in the hands of bad men, become instruments of oppression even to those who first conceived them. Certain it is that, whatever the occasion, or who the originators of the system, which has developed so much of that organized crime to which I now refer, those who engage in such practices as midnight marauding in disguise, should be regarded and

treated as outlaws and the worst enemies of society. The indications are, that instead of being an organization extending over large districts, the worst elements of the several counties are only locally organized, and depend upon the popular terrorism which has sprung from the idea of a powerful and widely diffused organization.

Whatever plausible pretexts may have been found in certain conditions of society in other States to apologize for such unlawful combinations, not the least ground of excuse can be found for their existence in Kentucky. It could not be alleged that our Government had ever failed to maintain law and order, to punish crime, or protect the rights of its citizens when these night-prowling bands began their lawless career—a career which has been productive of evil, and only evil, to the community.

The safety of the citizen and the honor of the State alike require that all lawful means should be employed for the prompt and thorough suppression of such a condition of affairs. To this end the Legislature of the State must come to the aid of its judicial and executive officers. No additional legislation is needed for the punishment of these offenses. Our statutes prescribe sufficient penalties for every crime that has been committed, and our laws are ample to secure the conviction and punishment of the guilty, if the officers of the law and juries do their duty. The difficulty in bringing these offenders to justice lies upon the threshold—in securing their detection and arrest. This difficulty, moreover, does not arise altogether, or even mainly, from the secrecy and disguise with which they seek to veil their crimes, or their facilities for concealment. These circumstances contribute less to their escape, as I believe, than the reluctance of men, whether from fear or favor, to disclose what they know, and the apathy or terror which restrains the community, and, by consequence, the officers of the law, from pushing investigation. Let now a healthier tone of public sentiment prevail; let the manhood of the community be roused; let them realize that they, the people, are the true conservators of the peace and good order of society; that upon them rests the defense of the laws of the Commonwealth and of the rights of the citizen; and let them determine, with the courage of freemen, that at all hazards these infamous outrages shall cease. Let this be, and the doom of these marauders is sealed.

The adoption of some suitable means by which the citizen shall be made to feel his responsibility in such cases would greatly promote the more faithful execution of law throughout the Commonwealth. There

is to me painful evidence of a radical change in the political spirit of some of our people—evidenced in their readiness to relinquish the duties and functions of their local governments. There is an increasing tendency to ignore the local authorities and depend upon the chief State officer at Frankfort for the execution of the laws, even to the performance of police duty. The fact gives just cause for alarm. For such abdication of duty not only involves peril to the rights and liberty of the citizen, but tends to impede the administration of justice, and opens the door to gross abuses. Men have left their homes and traveled over a hundred miles to this office, to let the Executive know that a murderer was within seven or eight miles of their residence, who, with the aid of a thousand dollars to be furnished by the Governor, might be arrested. Others have informed the Executive by letter, that two or three of their neighbors were guilty of crime, which could be proved by competent witnesses, if the State would furnish money to secure their arrest; and I fear that, in some instances, criminals have been purposely left to go at large until proclamations offering rewards for their apprehension could be secured.

Appeals have been made to me, in a number of instances, to organize a select company of mounted militia, armed, equipped, and maintained at the expense of the State, to be sent into certain districts, charged with the duty of detecting, arresting, and bringing to trial unknown perpetrators of crime, as also with that of hunting up witnesses to secure their conviction. The effect of such extraordinary procedure would be to supersede the regular constabulary force of the county, established for the purpose of securing to each vicinity the right and power of preserving the peace and enforcing the laws by home officers of its own selection; and to transfer from the citizen to the Executive, and a squad of soldiers controlled by him, the exercise of a grave authority and duty, which the Constitution and laws have, in the interests of liberty, jealously guarded against being lodged in his hands. Under the Constitution "the Governor is commander-in-chief of the army and navy of this Commonwealth and of the militia thereof;" and article 3, section 14, of the Constitution, directs that "the Governor shall take care that the laws be faithfully executed." But the Legislature has restricted him in the use of the militia as a means of enforcing the law, and only allows him to call it out "to repel invasion, suppress insurrection, rebellion, riot, and to aid civil officers in the execution of the laws of the State," when the "*posse comitatus* shall be deemed insufficient for the enforce-

ment of the laws," which, in my judgment, is as far as such authority should be vested in an Executive. Even then the power granted is not an exclusive prerogative of the Executive, but one which is equally shared by the authorities of the county.

In obedience, therefore, to the letter and spirit of the Constitution and laws, and in hearty sympathy with their teaching, I have, whilst anxious and prompt to employ every lawful means of repressing the disorders which have afflicted certain localities of our State, steadfastly refused (in the face, too, of much inconsiderate censure) to comply with the repeated solicitations made to me, either to send select companies or call out the militia in the infected districts. Had I yielded to the urgent, importunate, and, at times, almost mandatory appeals for such action, I should have justly incurred the censure of all true and wise friends of law and order, and of political liberty and public justice. I should have done an act unauthorized by the Constitution and laws; and no exigency can justify the Chief Magistrate of a State in violating his oath of office. Had I been fully convinced of the policy of the measure, which I was not, its adoption would have been a gross act of executive usurpation. None of the conditions precedent necessary to authorize me to call out the militia existed. No application has been made to me by the authorities of any county in which these disorders exist for aid in executing the laws—except as I have been asked to issue a proclamation offering a reward. No riot caused by the marauders has called for suppression; no resistance has been offered to the warrant of a magistrate; no officer of the law has been impeded in the discharge of his duty, so far as I am informed. In no instance has even a *posse comitatus* been summoned to aid in the arrest of such malefactors.

All the appeals to this office have been made through private and unofficial channels, and the entire outcry against the non-action of the Governor has been from such persons, and in such a form as rather to embarrass than aid the Executive in his efforts to bring the offenders to justice. Under these circumstances the Governor has no more authority to arm, equip, and employ troops than any private citizen, and to do so would constitute a malfeasance and usurpation of power furnishing just ground for his impeachment; and the soldiers thus employed would be, in the eye of the law, themselves marauders, indictable and punishable as disturbers of the peace. The Executive can be held responsible only for the use of the power intrusted to his hands; and to that extent I have strenuously employed all lawful means that suggested themselves

to me for the suppression of this peculiar form of lawlessness. I am pained to confess, however, that these efforts have not accomplished the desired end, and that I am satisfied that additional legislation, and even some extraordinary agencies, are needed for that purpose. Trusting that your wisdom will find an adequate remedy for a state of things which has become alike dangerous to the public welfare and a disgrace to the Commonwealth, I commend the subject to your earnest deliberation, with a few suggestions:

With regard to the officers of the law, I would suggest, that, as an incentive to greater faithfulness and diligence in the discharge of their duties, larger compensation be allowed for their services in executing the criminal law, at the same time heavier penalties be denounced against them for malfeasance in office and neglect of duty, especially as to jailers. The great number of escapes from jail through the State is ominous, and needs legislative attention.

I further recommend that the law shall provide that if, in any county or district where this character of disorders prevail, it shall be found that the people, either from complicity or sympathy with the wrong-doers, or from culpable indifference and disregard of their duty as citizens, shall make no earnest effort to detect and bring the perpetrators of crime in their midst to just punishment, then shall the Executive be empowered, without waiting for an application from the local authorities, to appoint a Commissioner of Inquiry, who, after being duly commissioned, and having taken an oath for the faithful performance of his duties, shall proceed to the county, district, or neighborhood where the disorder prevails, and hold an examining court, for the purpose of inquiring into the alleged offenses and securing the arrest of the guilty parties. And, that he may be fully protected while engaged in the discharge of his duties, as well as to secure the execution of his orders, he should be furnished with a sufficient guard of select men, vested with constabulary power, to be appointed and placed under his control by the Governor, with authority to increase their number should he deem it necessary. He should be invested, to the extent of his commission, with the same power and jurisdiction possessed by any other Court of Inquiry in the State, and also with the inquisitorial powers of a grand jury. He should be empowered to direct and cause to be arrested and brought before him all persons suspected of offenses to which his jurisdiction extends, hear the evidence in the case, and if, in his judgment, the proof establishes the guilt of any of the parties charged, or is sufficiently strong as that a

trial should be had in the circuit court, he shall commit to jail or hold to bail such guilty parties for trial in the circuit court of the county.

The compensation for the services of such Commissioners should be sufficiently liberal to secure the acceptance of the position by men of the highest qualifications, and this, together with the expenses attending such examinations, should be payable from the Treasury of the State upon proper affidavit of the Commissioner and upon being duly audited after approval by the Executive.

STATE DEBT.

It is a source of great satisfaction to me, as doubtless it will be to you and the people of the State, to be able to announce that the State debt is virtually liquidated in full, with the exception of the school debt, which is a permanent loan, and therefore not redeemable.

At the close of the fiscal year ending the 10th day of October, 1872, the entire outstanding bonded indebtedness of the State was, as stated in my last annual message, \$966,394. During the fiscal year which closed the 10th day of October, 1873, there was paid, of that amount, \$435,000, leaving unpaid at that date the following bonds, to-wit:

6 per cent. bonds past due	\$149,394 00
5 per cent. bonds past due	71,000 00
6 per cent. bonds maturing in 1874.	116,000 00
6 per cent. bonds maturing in 1875.	19,000 00
6 per cent. bonds maturing in 1876.	2,000 00
6 per cent. bonds maturing in 1894.	109,000 00
6 per cent. bonds maturing in 1895.	60,000 00
6 per cent. bonds maturing in 1896.	5,000 00
	\$531,394 00

Since that date there have been redeemed and canceled of the foregoing bonds the following:

1 6 per cent. bond maturing in 1874	\$1,000
135 6 per cent. bonds matured in 1872 and 1873	135,000
61 5 per cent. bonds matured in 1873	61,000
1 6 per cent. bond maturing in 1874	1,000
2 6 per cent. bonds maturing in 1874.	2,000
	\$200,000

Thus leaving only \$331,394 of bonds outstanding unredeemed and uncanceled. To meet that amount, the Commissioners of the Sinking Fund have deposited with the Bank of America in New York \$350,000 of five-twenty gold-bearing interest bonds of the United States, worth a considerable premium in the market, with which to redeem said bonds,

with the accruing interest thereon. So that, the State having deposited with her fiscal agent in the city of New York an amount more than sufficient to pay her entire outstanding indebtedness, I feel justified in saying that she is virtually out of debt and free of her bonded obligations.

Among the outstanding and unredeemed bonds there are \$165,000 in the possession of the Commissioners of the Sinking Fund, held by them for the benefit of the Agricultural College at Lexington. I respectfully recommend that an act be passed authorizing and directing the Commissioners to take up and cancel said \$165,000 of bonds, and to substitute in lieu of them so many of the five-twenty bonds on deposit in New York as will be just and equitable to the College and to the State. Unless some provision of the kind suggested be adopted, the bonds mentioned cannot be redeemed for twenty years to come, as all of them are of the issue known as "military bonds."

In my judgment, sound policy and the best interests of the State alike demand that the last vestige of her indebtedness be wiped out, especially in view of the fact that she has the means with which to do it. It is better for her to exchange any security she may hold for her own paper when she can do it on fair terms.

REVENUE PROPER.

The Commissioners of the Sinking Fund, acting under the authority and by the direction of the act approved March 19, 1873, entitled "An act to amend the revenue laws of this Commonwealth," after investing so much of the means at their disposal in five-twenty gold-bearing interest bonds of the United States as was sufficient to provide for the payment of the whole amount of the redeemable bonded indebtedness of the State, as provided in said act, directed, by an order entered on their minutes on the 4th day of November, 1873, the Auditor to transfer all of the remaining resources of the Sinking Fund to the Revenue Proper, except the five cents tax on each one hundred dollars of taxable property to pay the interest on the school debt, which was accordingly done.

The wisdom and policy of that act will not be doubted when an examination is made of the Auditor's report, which in due time will be laid before you. It will be seen, from that report, that the receipts into the Treasury for the fiscal year ending the 10th day of October, 1873, to the credit of the Revenue Proper, were as follows, to-wit:

Received from sheriffs	\$786,534 63	
Received from corporations, &c.	245,987 54	
		<u>\$1,032,522 17</u>
Whilst the expenditures for the same period amounted to . .	\$1,182,601 48	
Add deficit of October 10, 1872	365,366 67	
		<u>1,547,968 15</u>
Amount of expenditures over receipts	\$515,435 98	

It will thus be seen that the expenditures exceeded the receipts for the last fiscal year ending the 10th day of October, 1873, \$515,435 98.

It will also be seen that the transfer made, in pursuance to the order of the Commissioners of the Sinking Fund, not only enabled the Auditor to liquidate the deficit shown to exist, but also to estimate the receipts into the Treasury for the current fiscal year ending the 10th day of October, 1874, at \$2,334,334 34; whilst the expenditures for the same period are estimated at \$2,085,455 01. Thus showing, according to his estimates, that the surplus likely to be in the Treasury at the date stated will be \$248,879 33. With strict economy that amount may be materially increased.

This is indeed a flattering condition of our finances. But it must be understood that in the Auditor's estimate of receipts is embraced \$801,027 56 in cash, transferred from the Sinking Fund under the act of March 19, 1873, and which cannot be included in any future estimate of receipts into the Treasury for succeeding fiscal years. I would have no one misled by the prosperous condition of our finances likely to exist during the present fiscal year.

Whilst I am fully persuaded that the present rate of taxation will prove amply sufficient to pay the ordinary current expenses of the State for many years to come, if a just and proper valuation of the taxable property of the State can be had, and a prompt and faithful collection and payment of the public revenue secured, yet I am not certain that it will continue sufficient for many years to come, unless some material changes are made in our revenue laws.

I have heretofore called the attention of the General Assembly to the unequal, unjust, and inefficient system of assessing for taxation the taxable property of the State.

My information is, that in many of the counties of the State there are large quantities of property not listed for taxation at all; and in still a greater number it is rated at not more than one half its real value, and, in but few, up to its full value. Whilst the rate of taxation is equal and uniform upon the assessed value of property throughout the

Commonwealth, the burden is not equally distributed, for want of uniformity in the rate of assessment. I do not refer to those fraudulent evasions and concealments of which the dishonest tax-payer is guilty in listing his property. The only means for the detection and punishment of these, further than the law now provides, would, perhaps, to be successful, involve an inquisitorial procedure vexatious to good citizens and more mischievous to the public interests than the fraud itself. I refer to that inequality in the rate of valuation for which assessors and supervisors are themselves responsible. If land, for instance, of the same market value, is assessed at fifty dollars per acre in one county, and at twenty-five dollars in another, it is clear that, whilst nominally a uniform rate of taxation is observed, the Government does practically and in fact exact from the citizens of the first county a tax double that which it requires from those of the second for the same amount of property; and, in such case, the theory of uniformity in the rate of taxation becomes a snare and a grievance. For, whilst it is but just that a citizen should bear his fair share of the public burdens, it is a grievance that the Government should increase the burden to him by permitting a discrimination in favor of others.

The Auditor's report for 1872 shows that the total valuation of the property of the State for that year was \$22,653,959 less than it was for the previous year, and his report for 1873 will show it to be \$372,181 less than it was in 1872. Should this state of things continue many years longer, an increased rate of taxation will be inevitable, or the public credit will seriously suffer. There is a remedy for this condition of affairs, and it ought to be applied promptly and without hesitation.

I respectfully recommend that an act be passed creating a Board of Equalization in each county in the State, to be appointed by the State authorities.

It ought to be made the duty of the county boards to lay off their respective counties into revenue districts, and to require the assessors to list the property in each district separately, and to return their books to them, who shall immediately proceed to examine them and see that all the taxable property is listed, and equally and justly valued, as nearly as may be.

They should have full power to increase or decrease the valuation of each piece of property listed; and when they have completed their work, they should be required to return the books under oath to the county clerks, who shall immediately examine and correct any mistakes of extension or addition.

A State Board of Equalization should also be established, whose duty it should be to examine the assessments of each county after they are returned to the Auditor, and increase or diminish them, so as to secure uniformity and a just valuation throughout the State.

A number of our sister States have systems for regulating and fixing the values of taxable property similar to that recommended, and my information is that they have worked admirably well, and proved a great success.

In the discharge of my official duties I have heretofore recommended, in two successive messages, the repeal of the law giving sheriffs and collectors until the first of April in which to pay the revenue into the Treasury. That recommendation I renew. The reduction of the resources of the Sinking Fund has increased the necessity for an earlier collection and a more speedy payment of the revenue into the Treasury.

Hereafter there will be little or no surplus in the Treasury to the credit of that fund from which to borrow, in case of a deficiency in the revenue; and an exigency may therefore occur which will prevent the prompt payment of the legitimate demands upon the Treasury, and thus force the State to suspension.

This dilemma *can and must be averted* by requiring sheriffs to settle their revenue accounts by the first day of January in each year. The injurious effects of the present law were clearly demonstrated during the present year by the inability of the Treasurer to pay promptly the school money when due to the several counties. Much the larger portion of that fund due in July last was not paid until October, in consequence of it not having been paid into the Treasury by the sheriffs—thus seriously injuring and embarrassing the school interests of the State. In my judgment, and that of the Auditor, our revenue system cannot be made to work harmoniously and successfully under the law as it now stands.

COLLECTION OF REVENUE, AND CORPORATIONS.

Among the subjects which will be presented for your deliberation none will have more urgent claims on your attention than the adoption of some measure for enforcing a more prompt and efficient collection of the public revenue. For many years past so tardy and deficient have been the payments into the public Treasury, that the Auditor has often been unable, for a length of time, to meet appropriations made by the Legislature or the just claims of citizens; and frequently has the poor, laborious teacher of a district school, been distressed by having to wait for the payment of his hard-earned wages because of the failure in pay-

ment of the State and school revenues. Had not, indeed, the plethoric Sinking Fund come to the relief of the revenue proper, the proud Commonwealth of Kentucky, rich in resources and with a merely nominal debt, would have been reduced to a condition of actual suspension of payment. And, although the defective collection of the current revenue was not the sole or chief cause of this financial embarrassment, it largely contributed to it. And, now that we have no longer the Sinking Fund to fall back upon, the prompt payment of every dollar of revenue raised at the present rate of taxation will be required to defray the ordinary expenses of Government; and should these delinquencies continue, they will inevitably create, at no distant day, a deficit, to meet which the State will be forced either to borrow money or increase the rate of taxation.

The increased delinquency of the last fiscal year is highly instructive. Although the taxes of 1872 were due from corporations and revenue collectors respectively January and April, yet on the 10th of October, the close of that fiscal year, the large sum of \$251,238 68, including some back deficits due from corporations, and \$229,387 96, due from sheriffs, making in all \$480,626 64, remained unpaid. How much of revenue has been lost to the State in the last twenty years by the default of sheriffs alone is shown in the following exhibit furnished me by the Auditor:

Old balances and suspended revenue account remaining unpaid, 1852	\$98,568 82
1852, sheriffs' revenue unpaid	634 25
1853, sheriffs' revenue unpaid	4,752 94
1854, sheriffs' revenue unpaid	4,771 43
1855, sheriffs' revenue unpaid	552 87
1856, sheriffs' revenue unpaid	3,516 01
1857,	
1858, sheriffs' revenue unpaid	18,241 20
1859, sheriffs' revenue unpaid	7,319 91
1860, sheriffs' revenue unpaid	26,886 68
1861, sheriffs' revenue unpaid	15,403 46
1862, sheriffs' revenue unpaid	15,180 81
1863, sheriffs' revenue unpaid	15,353 16
1864, sheriffs' revenue unpaid	14,576 28
1865, sheriffs' revenue unpaid	151 28
1866,	
1867, sheriffs' revenue unpaid	16,112 67
1868, sheriffs' revenue unpaid	1,719 32
1869, sheriffs' revenue unpaid	6,254 46
1870, sheriffs' revenue unpaid	36,212 14
1871, sheriffs' revenue unpaid	1,645 56
1872, sheriffs' revenue unpaid	229,387 96
	\$517,241 21

In this table of deficits, amounting to more than half a million of dollars, we find only two years (1857 and 1866) in which the entire amount of taxes collected by sheriffs was paid into the public Treasury; and yet see no reason why a proper legislation cannot secure such a result every year.

This loss of revenue to the State is not caused by the delinquency of the tax-payers, but of the sheriffs, who improperly retain in their hands the money collected from the people. The office is often sought, not for the legal compensation it proffers, but for the large profits made in handling the public money. Such a sheriff does not scruple to embarrass the public finances in using the people's money for his own private gain, and subject the Commonwealth to the vexatious delay and expense of a prosecution to wrest it from his hands. I say it with all courtesy, but with a firm conviction of its truth, that for this state of things the Legislature has been itself largely responsible in the indulgence which it has granted to such officers. It is a case of frequent occurrence that, when judgment has been rendered against a delinquent sheriff, a special act is obtained from the next Legislature releasing him from the damages assessed against him according to law. At every session much of the time of the General Assembly is consumed by cases of this kind; and, in considering the numerous applications, which are too generally granted, for extending the time of payment to individual sheriffs—an indulgence which has cost the State largely over fifty thousand dollars within the last ten years. I trust that you will observe greater caution in granting such indulgences than has been usual in the past.

Corporations are required to report their taxable property to the Auditor, and pay their taxes directly into the Treasury through their own officers, and at stated times during the fiscal year. How little regard has been paid to this requirement is shown in the fact stated above, that more than a quarter of a million of dollars due from these institutions remained unpaid at the close of the last fiscal year. Of such arrearages some (accumulating for years) are at length entirely lost, others are collected only by the expense and tedious process of a suit in chancery; and that many corporations evade taxation altogether is evidenced by the fact that every year the Auditor discovers that some of them have never reported to his office, nor paid a cent into the public Treasury.

The salutary amendments to the law on this subject incorporated by the revisors in the General Statutes will, if properly enforced, do much to abate the evil; and, whatever additional provisions may be needed to

complete the remedy, will, I trust, receive from you that attention which the importance of the subject demands.

In this connection I commend to your thoughtful consideration the peculiar immunities as to taxes, granted by charter to banks and other private corporations. When these institutions were first created by the Commonwealth it was thought wise to protect and encourage the investment of capital in enterprises which promised to be of such benefit to the public by a most liberal legislation, and, among the exclusive privileges, franchises, and immunities secured to them by charter, was an exemption from all taxation, except a stipulated specific tax upon their capital stock. When, afterward, similar corporations were multiplied, not so much for public accommodation as for purposes of private gain, the same, or even an increased exemption, was granted to them, without regard to the change which had taken place in the value of money, the financial condition of the country, or the fiscal requirements of the Government. The result is, that the surplus money of the wealthy, instead of being directed to the development of the resources of the country in the improvement of agriculture and other industrial pursuits, is aggregated in these institutions, where it receives an ample usury from the people, without sharing an equal part with them in the burdens of taxation.

The Auditor's report shows that on the 1st of January last we had *eighty-seven* banking institutions, employing a capital of twenty-two million one hundred and forty thousand dollars. Of these, fifty-two are required by law to pay a tax of fifty cents on each share of one hundred dollars of capital stock; thirty-four pay forty-five cents, and one is required to pay twenty-five cents. Besides these, one or more brokers' offices have received, by charter, a like exemption. None of these corporations pay any other tax whatever. Thus an aggregated money capital of over twenty-two millions of dollars, belonging to citizens of the Commonwealth, is so protected and exempted by the charters of these institutions as to escape its due share of the public burdens. It escapes all the city, county, and district taxes, which constitute at present so heavy a burden upon the citizens in many parts of the State, and refuses even to pay tax upon its surplus earnings. It is difficult to reconcile such a discrimination against the producing class of our citizens with the principle of "equal rights to all and exclusive privileges to none;" or with that other recognized maxim of political economy, that "taxation, to be just, must be equal and uniform." And upon what

ground can these institutions claim an immunity exempting them from the common obligations and responsibilities of property? Useful and convenient as they are to the business community, they are organized and operated, not for any beneficent purpose, but for gain; and their directors would be thought culpable in granting any favor or indulgence inconsistent with this purpose. I am happy to say that I am satisfied that our banks have been, in the main, conducted with integrity and to legitimate ends; and the manner in which they have met the recent and continuing financial crisis, assures us that they are in a sound and healthy condition. And, although they have not been able to afford to the citizens all the aid desired in this emergency, yet we have no cause of complaint, but rather commend the wise stewardship which secured their safety amid disaster, and cannot ask them to compromise their sufficiency by hazardous accommodations. Nevertheless a banking institution is simply aggregated capital, seeking through chartered privileges and under skillful financiers to secure larger and more punctual usury than it could otherwise obtain. And why should it, or any other corporation organized for like purposes, be granted an exemption from burdens which other property has to bear? It seems to me that a banking company, so weak and inefficient that it cannot make its business profitable without such immunity, is neither necessary or safe.

Our railroad companies enjoy a similar exemption. Our revenue laws fix the rate of assessment on these roads at \$20,000, or, if narrow gauge, \$10,000 per mile, upon which is to be paid the same rate of tax as is levied by law on real estate. This valuation includes their depot grounds and improvements, the right of way, engines, rolling stock, and all their investments for the uses and purposes of the road; and, as in the case of banking companies, they pay no other tax whatever. Some of them are exempted by law from all taxation for a number of years, and others, till their entire line of road is completed. When we take into consideration the large sums which have been consumed in the construction of these roads, raised by special tax levied upon the citizens of many counties, cities, and towns to pay for subscriptions of stock, imposed by voting majorities under authority of legislative enactments, and that the stock so subscribed is virtually a mortgage upon such localities, and has been, or is being, paid dollar for dollar, but is owned in many instances by the companies under purchases at greatly reduced prices, it does seem that the very improvements secured and built up by such taxation, and being operated at profit, ought to be made to assist in bearing all the burdens of taxation upon such localities.

Nor is it the present loss of revenue so much as the consequences which lie in the future that are just cause of alarm. The diversion of the surplus capital of the State to corporations enjoying such immunities must inevitably result in imposing an increased rate of taxation upon the real estate and producing classes, besides lodging a dangerous power in the hands of these privileged institutions. Already, in some of our neighboring States, the abuse of such power has excited great apprehensions, and given rise to the serious question how far the charters of such corporations are subject to revisal by the Legislature in the interests of the public. It is often the case, especially in the great commercial centers of the country, that moneyed institutions are organized and operated in the interest of rings, and, instead of meeting the wants and relieving the necessities of the farmer and other producers, are ready to help the monopolist in his efforts to take advantage of the necessities of the producer, and control the market for purposes of richer speculation; while at the same time, colossal railroad companies abuse their chartered power in exacting capricious, exorbitant, and oppressive rates of freight from those who are compelled to use their roads.

Whilst, however, we should be vigilant to mark such abuses and discover proper remedies for them, we must be careful not to invade vested rights, or encourage a spirit of hostility to the institutions themselves. We must not forget that, to the employment of associated capital, more than to any other cause, is due the great increase in the wealth of States, and the wonderful material progress which characterize the age in which we live. Such corporations, aided by the inventive genius of the age, undertake and accomplish enterprises which neither individual capital nor State aid could successfully carry on. We need more of such associations among us to facilitate commerce, stimulate manufacturing and agricultural industry, and aid in developing the resources of the State. We have happily had no occasion in Kentucky to provide remedies for the abuses mentioned above; and without discussing the question how far, in certain exigencies, the charter of a corporation is subject to revisal by the Legislature in the interest of the Commonwealth, as well as its own, I have desired simply to call your attention to the comparative immunity from public burdens enjoyed by certain institutions, and to submit to your wisdom to decide what remedy, if any, should be adopted to secure equality of taxation in their case.

TURNPIKE STOCK.

In my last annual message I called the attention of the General Assembly to some suggestions, the adoption of which would make the turnpike stock of the State more profitable. I respectfully renew the recommendations therein contained for your consideration.

I am gratified to be able to state that the Auditor reports a continued increase in the revenue derived from this source (\$33,550 19 last year, and \$27,847 45 the year preceding). But still it is not as it ought to be. I am sure if a proper agency were employed to attend to the interest of the State in these corporations, and secure its equitable share of their earnings, the amount received from them by the public Treasury would be greatly increased. These roads are amongst the most valuable of our internal improvements, and if the large sum of the public money—near three millions of dollars—expended in their construction had not returned a cent of revenue, they have so greatly contributed to the convenience, comfort, and prosperity of our citizens, that there would be no cause to regret the expenditure. This fact, however, can neither justify us in abandoning these public enterprises to the grasp of a few private speculators, nor absolve the Government from its duty of seeing to it that the people, whose money has been thus invested, shall have returned to them every dollar of dividend which is fairly their due. With States as with individuals, a wise liberality must always rest upon a just and rigid economy; and were this source of revenue even less considerable than it is, still the duty of exacting it would not be lessened. I am convinced, moreover, that, under a more vigilant and economic management, these roads may be made to yield to the State an annual income of fully fifty thousand dollars, without increasing tolls or lessening their accommodations for travel. A vigilant and energetic commissioner, supervising the interest of the State in these roads, could readily effect any changes in their present management which may be found desirable; for, as the larger portion of the stock in the several companies is owned by the State, its representative, properly instructed, could secure the election of suitable directors in each to introduce the proposed reforms.

Entertaining these views, I feel it my duty earnestly to renew my former recommendations that the Legislature provide by law for the appointment of a Commissioner of Turnpike Roads.

JUDICIARY.

It will become the duty of the General Assembly, at its present ses-

sion, to readjust the judicial districts of the State. Whilst addressing yourselves to this duty, I would press upon your consideration the urgent necessity which exists for the establishment of additional courts, in order to secure a more prompt administration of justice, *especially in the execution of the criminal law*. In my last annual message I called the attention of the Legislature to the inevitable but vexatious delays occurring constantly in the trial of both civil and criminal causes, and the enormous expenses of criminal prosecutions consequent on such delays. My views, as expressed in that document, to which I respectfully call your attention, have been confirmed in my mind by subsequent reflection and information, and I renew the suggestions therein contained, together with the recommendations which I now make. It is for many reasons desirable that our judiciary system should be uniform in its constitution throughout the State, and doubtless it was intended so to be by the framers of our organic law in the use of the circuit court system; but the power of the Legislature has been so restricted in creating circuit court districts, that it has been compelled for many years to supplement other courts to particular districts and localities, where the business and convenience of the people so much demand it, until at this day the system is much checkered. The increase of the present number of circuit districts is conditioned in that instrument by the possession of a population of fifteen hundred thousand, and we have no sufficient evidence that the State has yet attained to that number; hence we are compelled to provide for the deficiency by creating more criminal and chancery courts, or courts of common pleas. It is a question of great doubt with many whether, even if we possessed the requisite population, the General Assembly has constitutional authority to establish more than one additional judicial district every four years.

Under such restriction, the establishment of circuit courts, as provided for in the Constitution, could bring no adequate relief to our present necessities. After mature deliberation upon the subject, I recommend, as the most expedient measure that has presented itself to me, that you repeal all laws establishing equity and criminal courts and courts of common pleas in the State, except as to the city of Louisville, and redistrict the State into sixteen circuit court districts, providing for the election of a judge in each next August; that you create, in addition, a system of chancery courts, dividing the State—excepting the city of Louisville—into a proper number of chancery districts—say eleven—besides the one above mentioned, and provide for the holding of a court, vested with

equity jurisdiction only, in every county twice a year; providing further for the election of a chancellor in each district at the same time, and for the same term as in the case of judges of the circuit courts; and that the circuit judges be relieved from the consideration and jurisdiction of all equity causes, and be vested with only common law and criminal jurisdiction, and required to hold one extra term of their courts annually in each county for the trial of criminal causes exclusively.

This measure would give to the State sixteen circuit judges, twelve chancellors, and one vice chancellor, besides the common pleas judge of Louisville—thirty in all—in place of the present number—twenty-four. It will secure a uniform judicial system throughout the Commonwealth, and give equal facilities for justice to all the citizens. The division of labor will also enable the judges to devote their attention more exclusively to, and perfect themselves in, their several departments of the law intrusted to their administration, and afford them more time for study and deliberation in forming their decisions. Nor will the adoption of this measure increase the public expenditure. I am well satisfied that the saving in witness claims, guards, and jailers' fees, which it would accomplish, would fully pay the expenses incurred in the support of these additional courts.

SCHOOL DEPARTMENT.

I regret to say that the condition of our Common Schools is such as to require prompt measures of relief. The Department of Public Instruction is suffering from a financial embarrassment, not attributable to any fault in its administration, or to an insufficiency in the provisions made for its maintenance. The Constitution and laws have provided a liberal endowment for its support. The embarrassment is due solely to defects in the laws governing the payment of the school revenue into the Treasury and its disbursement among the teachers; and the derangement must continue until the provisions of the statute in this respect are changed.

Formerly the school year ended 31st December, and on the next day the revenue was due and was required to be paid into the Treasury. The Auditor, having full reports of the number of children attending school during the year just closed, had no difficulty in ascertaining the *pro rata* for each child, and promptly paid the school claims according to the estimates. But in 1870 the system was changed in two important particulars. Under the statute enacted at that time, and still in force,

the Auditor is required a year in advance, and before the assessment upon which the tax is to be levied and collected can be known to him, to estimate and certify to the school department the amount of school money distributable in the ensuing year; and upon this the Superintendent of Public Instruction calculates the *per capita* allowance to the children who are expected to attend the schools. It will be readily seen how difficult it must be for either the Auditor or Superintendent to make an accurate approximation even to the facts, in estimates based upon such unreliable data as the ever-varying returns in the assessment and collection of public revenue, or the uncertain attendance of pupils in our Common Schools.

Another defect in the law is, that it makes the compensation due to teachers payable in installments at stated times during the year, and thus promises a disbursement of the school fund before it is collected and paid into the Treasury. I recommend a return to the former system of annual payments, and that the rate of distribution of the school fund be estimated upon the basis of the revenue actually paid in. The school year now ends June 30, and, under the General Statutes, which took effect the first of this month, payments to teachers are to be made November 15th, February 15th, May 15th, and July 1st. But inasmuch as, under the former law, January 10th, April 10th, and July 1st were the times fixed for payment, no teacher can be paid for services rendered during the present school year until February 15th, 1874. I trust that this worthy and deserving class of our public servants will not be again subjected to such disappointments as they have experienced within the last two years, but that you will devise means to meet promptly their claims upon the State.

I commend to your attention the instructive and interesting report of the Superintendent of Public Instruction, which will be laid before you. All must be gratified with the assurance it gives of the steady progress and increased popularity of the enterprise, and the cheering evidences of success in the efforts made to secure an improved management of the schools, and greater thoroughness in the character of instruction in them.

Whilst our colored population are struggling so earnestly, and with a measure of hopeful success, to educate their children, it occurs to me that we should shape out for them a system of schools, and offer them at least the countenance of our approval in their laudable efforts toward improvement. In each of the annual messages I have heretofore delivered to the General Assembly I called attention to this subject, and

made recommendations suggestive of my views. I now renew those recommendations, and earnestly invite your attention to this important interest. Our own sense of justice, it seems to me, will not allow us to longer ignore this demand.

CHARITABLE INSTITUTIONS.

When I came into office I found the two Lunatic Asylums full to their utmost capacity ; so that large numbers of that class of sufferers, for whom they were provided, were compelled, in the absence of hospital accommodations, to be confined in the public jails or guarded in private hands. The attention of the Legislature was called to the subject two years ago, with an earnest recommendation to supply the deficiency ; and accordingly, on the 21st of April last, an act was passed reconstructing and changing the system of conducting said Asylums, and some others of the charitable institutions of the State, by the terms and provisions of which, the building which had been provided by the State as a House of Reform for Juvenile Delinquents was set apart and directed to be used as an Asylum for the reception and treatment of chronic cases of lunacy. It was provided, also, that, in case this Asylum, in addition to the other two, should prove insufficient to meet the wants of the white lunatics of the State, the Institution for the Education of Feeble-minded Children should cease to be used for the purposes of its erection, and converted into a Lunatic Asylum. The act directed "the Governor to cause all the lunatics in the State to be located and provided for in conformity with its provisions, at as early a day as practicable after the first day of May, 1873."

Immediately after the adjournment of the Legislature, and after a Superintendent and Commissioners had been appointed for the said new Asylum, situated near Anchorage, in Jefferson county, I made with them a personal inspection of the buildings and grounds, with a view to carrying out the provisions of said law. Finding the buildings unfinished and unsuited in construction for the purposes of such Asylum, without water supplies or facilities for warming the apartments, and destitute of furniture, it was manifest that lunatics could not be suitably accommodated there without a large expenditure of money in finishing the buildings and reconstructing and adjusting their apartments to their new purpose, as well as in supplying them with heating apparatus, water, and furniture. The Legislature having failed to make any appropriation for these purposes, the alternative was forced upon me either to abandon the

enterprise till the Legislature should reassemble, in the meantime leaving a multitude of poor lunatics unrelieved in their wretchedness, or to assume the responsibility of borrowing, in the name of the State, the money necessary to complete the improvement. I felt that, as Chief Magistrate of the Commonwealth, I was truly representing the hearts of a generous and humane people when, in compassion for the poor sufferers, I chose the latter alternative. I borrowed at once fifty thousand dollars from the Commissioners of the Sinking Fund, and proceeded to contract for materials and labor, furniture, &c., to secure the completion and readiness of said institution for occupation at the earliest day practicable—the amount expended, and to be paid under contract, being sixty thousand four hundred dollars. A special report on this subject will be laid before you; and I respectfully ask that you approve my action, and make provision enabling me to meet this liability.

The work and improvements having progressed so as to justify the risk, I issued a proclamation fixing the 15th day of October for the reception of inmates at that institution; and although the buildings and other necessary appendages are not entirely completed so as to supply their full capacity, yet about 143 inmates have been received, and are amply and comfortably provided for.

The Asylums at Lexington and Hopkinsville were relieved of a number of their chronic cases, in the hope that such reduction, affording more room to those remaining, would secure greater advantages; but these two, as well as the one at Anchorage, are again almost filled to their utmost capacity; and it is apprehended that the Institution for the Education of Feeble-minded Children, according to the provisions of the new law, will soon be required for the accommodation of lunatics. The buildings at the First Asylum for colored lunatics are filled, and yet there are many of that class unprovided for, confined in the common jails or under the care of committees. I recommend that you make provision for their reception at the Fourth Asylum. It need not cost a great sum of money to make ample and comfortable accommodations for the same number, or more than are at the First Asylum.

Application of New Law to Institution for Feeble-minded Children.

Construing the law of last April as not designed to divert the institution erected for the Education of Feeble-minded Children from the purpose for which it was originally established, until the other three Asylums were filled, and that contingency not having occurred, it has been conducted as heretofore, but under the new law, which has increased the

expense of its management by the amount of the additional salaries paid to the Steward and Assistant Physician. The reports of the Steward and Secretary, on file in my office, show that the receipts from the Treasury, added to the amount realized from the products of the garden attached to the institution, have been sufficient to pay the current expenses from first of May to first of November, except \$1,881 61 paid for the purchase of coal, costing \$2,500, which will supply the wants of the institution till April next; so that at that time there ought to be a surplus of funds on hand under the control of the Board of Commissioners.

Feeling that to abandon such a noble charity of the Commonwealth as this is, in the full tide of its successful experiment, in order to provide increased accommodations for another class of the afflicted, would be a source of profound regret to the friends of humanity who have watched its progress with so much interest, I recommend that some measure be adopted which will provide for the wants of the lunatic without interfering with the peculiar mission of mercy assigned to this institution.

Should its conversion into a Lunatic Asylum be persisted in, it will require an expenditure of from fifty to eighty thousand dollars to reconstruct and adapt the buildings to the purposes of a Lunatic Asylum; and, even then they will afford accommodations for but a limited number. I recommend, that, instead of this, you make an appropriation to enlarge the capacity of the Anchorage Asylum during the coming year, so as to receive about one hundred more lunatics. This, I believe, will secure ample accommodations for this class of our afflicted for many years to come, if the courts of the country will observe proper caution in sending inmates to such Asylums.

Operations of New Law.

Previous to the act which, in April last, reconstructed the Lunatic Asylums, the several Superintendents, who were appointed not in reference to their administrative ability, but solely in regard to their skill as physicians, were not only charged with the care and medical treatment of the inmates—the great object for which these homes for the afflicted were established—but were burdened with the entire financial management of the institutions, including the purchase of supplies, and the conduct of the farms and gardens attached to them. The General Assembly, believing that the welfare of the inmates required the constant attention, services, and skill of the medical officers to whose charge they

were intrusted, relieved the Superintendents and their assistants of all other cares, and transferred the economical management of the institutions to the hands of Stewards (subjecting them to the scrutiny and oversight of a Board of Commissioners) appointed by the Governor.

I am gratified to be able to state that the experiment, within the first six months of its trial, has fully vindicated the wisdom of the change, and sustains the belief that it will not only prove a benefit to the afflicted, but lessen very considerably the charge upon the public Treasury.

I have endeavored to procure such information as to enable me to present a comparative statement of the cost of the several institutions during the first six months under the new system, and for the same period of last year. I have full reports of the expenses incurred under the new system; but, inasmuch as no monthly reports or settlements were required under the former law, I have not been able to arrive at an accurate exhibit of the expenses during the corresponding period of last year. By estimating, however, an average of the expenses for the year, it would appear that the cost of these institutions, under the new system, is less than under the former by from twenty to thirty thousand dollars per annum. The problem, however, will be fully solved by the end of the year. I have required the Stewards to contract no debt beyond the funds on hand to pay, and to settle and pay all contracts at the end of each month of the year.

The present Board of Commissioners have paid, as appears from the reports filed in my office, fifteen to eighteen thousand dollars of debts against the institutions contracted before last May; but, on the first day of November, no debt contracted under the new system remained unpaid, except that for coal for the Third Asylum during the coming winter. I am advised, however, by the former Board of Commissioners of the Institution for the Education of Feeble-minded Children, that there are debts contracted by them for improvements and supplies in carrying on the institution amounting to four thousand dollars, which remain unpaid. I recommend that provision be made for their payment. I also recommend that the annual salary of the Steward to the Fourth Lunatic Asylum be made equal with those of the First and Second Asylums.

Amendments Needed.

Our Lunatic Asylums, as well as the Institution for the Education of Feeble-minded Children, contain a few inmates from other States. These institutions were founded and have been maintained at a heavy public expense as a State charity; and whilst none should be excluded

from their benefits, so long as there is room to receive them, it does not seem to me just that patients from other States should be admitted until the large number of our own afflicted are fully accommodated.

The law should be amended also in reference to pay patients, so as to provide, that, in cases where they are able to pay, wholly or in part, the expenses of their accommodation, proper security for such payment should be required and means provided for collecting it.

The annual report of the Commissioners for each of these institutions will be laid before you, and I call your careful attention to their examination. The suggestions and recommendations of the Commissioners for the First Lunatic Asylum are, in my judgment, very valuable, and I heartily indorse and recommend their adoption.

House of Reform.

The law appropriating the buildings at Anchorage to the purposes of a Lunatic Asylum still requires the Superintendent and Commissioners to receive in charge and treat juvenile delinquents, as provided for in the original establishment of that institution. It is not matter of surprise, however, that they have not been called upon to receive any of this class of offenders. To unite crime with misfortune, the custody and reformatory discipline of juvenile delinquents with the sanitary treatment of maniacs in the same institution, and under the same management, requires a combination of incongruous duties which, to say the least, promises no satisfactory results. But, convinced as I am, that the establishment of a House of Reform is dictated by a wise statesmanship, as well as by a compassionate philanthropy—that the State assumes only a duty of beneficence worthy of a Christian people when it lays a restraining hand upon its erring children, and seeks by a wholesome discipline to restore them to virtue, I trust that the enterprise will not be abandoned, and that you will take measures for the establishment of a separate institution for this purpose. The alternative must be the continued consignment of youthful offenders to the baneful contagion of concentrated crime in our State Penitentiary. From fifty to one hundred acres of the land originally purchased for that purpose may be set apart, and suitable buildings and inclosures erected at a small cost, amply sufficient to meet the present requirements for such an institution; and I recommend that it be done, as well, also, as that the provisions of the present law requiring juvenile delinquents to be received at said Asylum be repealed.

INSURANCE.

The report of the Insurance Commissioner for the year ending 31st

December, 1872, shows that the amount insured at that time upon property and lives in this State was \$107,699,684 61. Premiums paid during that year by the people of this State amounted to \$2,684,567 81. The colossal magnitude of these enterprises, rendering necessary that surveillance in the interests of the people which has been provided by the establishment of our Insurance Bureau, is shown in the fact, that the amount of all the insurance in force in the companies admitted and doing business in this State—the whole of which is under the law subject to supervision by the Commissioner—was, at the close of last year, but little short of six thousand millions of dollars. The income of these companies for the year amounted to \$129,707,584 27, and the expenditures during the same time to \$105,130,855 91. The companies paid into the State Treasury as their revenue tax for the fiscal year ending October 10, 1873, the aggregate sum of \$57,607 72, and in fees toward defraying expenses of our State supervision of insurance, \$13,714 98; while the expense of that supervision under our laws amounted to \$27,732 13.

Previous to the enactment of the general insurance laws in 1870, the tax on premiums collected by insurance companies of other States and foreign countries, doing business in this State, was five per cent. These laws reduced the tax to two and one half per cent., and required, in addition to taxes (which are paid into the Treasury as part of the public revenue) and license fees (which go to the Auditor), that the companies shall pay the expense of State supervision. To be of any real value to policy-holders or to honest, well managed companies, State supervision must be rigid and effective. This I am sure has been the case in Kentucky under the operations of our Insurance Bureau.

The peculiar and onerous services demanded in faithfully fulfilling the requirements of the law for the protection of these vast interests cannot be efficiently rendered without, of necessity, involving a considerable cost. In some of the States, life insurance premiums are not taxed at all; in others, the tax is less than with us; and in nearly all the States the tendency is to reduce it. But, in my judgment, whatever relief from taxation in other respects it may hereafter be found expedient to grant to these companies, they should, in all cases, be required to pay the expenses incurred for their proper supervision by the insurance department.

An assessment has been made by the Commissioner, as the law requires, upon companies doing business in the State, to supply the deficiency in the receipts of last year in meeting the expenses of that Bureau.

These assessments, it is believed, will be paid into the Treasury. But, in order to guard against such charge upon the Treasury in the future, I recommend that all companies proposing to do business in this State under the general insurance laws, shall be required to deposit in the Treasury, at the beginning of each year, a sum sufficient to not only pay the customary fees, but to cover also such assessment as the Commissioner may find necessary to impose upon them to meet any deficiency in the expenses of the Bureau for that year. Such provision, whilst affording a convenient relief to the public revenue, will impose no undue exaction upon any company.

In my last annual message I recommended the repeal of an act passed at the January session of 1871, entitled "An act to authorize life insurance companies to make special deposits of securities in the insurance department." I most respectfully call your attention to the subject, and earnestly renew my recommendation for its repeal. The State should not, in my judgment, incur any further liability under that law; nor should it remain on the statute book to be used as a delusion in the hands of designing men.

PENITENTIARY.

I cannot but regard the present system under which the State Penitentiary is leased and managed as a reproach to the Commonwealth. In thus expressing myself, I would not be understood as implying any censure of the present or any former keeper in charge of the institution. It is the system, not the officer acting under it, with which I find fault. Impressed with this conviction, and anxious that the subject should be dispassionately and carefully considered by a Legislature unembarrassed by a canvass for the election of keeper, I commended the matter to the attention of the General Assembly in my last annual message. As, however, it was not taken up for consideration by that body, and as further thought bestowed upon the subject has but more thoroughly convinced me of the correctness of the views presented at that time, I would respectfully invite you to take the subject into careful consideration. I still favor and recommend the adoption of the warden system, as proposed in my former message, as I am satisfied that it has, more fully than any other, subserved the ends for which the penitentiary was instituted. But should you determine to adhere to the present system, I feel constrained (respectfully but most earnestly) to call your attention to some serious defects in the law governing the subject as it now stands,

the correction of which is required alike by considerations of public interest and by motives of humanity.

In an economical point of view the leasing system has proved a costly experiment to the State. Since its adoption in 1857, the excess of expenditures over receipts has been, as shown by the Auditor's exhibit, largely over three hundred thousand dollars; and from 1865 to the present year, inclusive, the average annual charge of the institution on the public Treasury has reached the enormous amount of forty thousand dollars. This burden upon the State must continue, and probably be steadily increased, so long as the Penitentiary shall be leased upon terms now provided by the statute. The Legislature will be constantly called upon to make appropriations for the erection of new buildings, repair losses by fire, supply additional machinery, &c., whilst the only income derived from the institution to meet such outlay is the stipulated eight thousand dollars to be paid as annual rent by the keeper.

Now, whilst we cannot expect that any suitable and competent person will undertake the management of our convict labor unless it promises to be amply remunerative, I feel sure that the annual payment required of the lessee might be greatly increased, and still leave a large margin for profits. The hire of six hundred convicts at \$8,000 per year, allows, as wages for each person's labor, less than twenty-six cents per week, or a fraction over four cents per day. When we take into consideration the fact that all the necessary buildings for the accommodation of the inmates, the workshops, machinery, tools, &c., are furnished by the State, that the food and clothing supplied are of the cheapest quality, and that the labor is under absolute control, it does seem to me that an increased amount might be profitably paid for that hard labor which the task-master is not only permitted, but required by law, to exact from each convict.

A more important amendment to the law is required in the interests of humanity; for a more thorough inspection of the management of the institution, which, while it will tend to secure a wholesome prison discipline, may guard against abuses of power, and insure a strict obedience of the requirements of the law. The keeper having given his bond conditioned for the faithful performance of his office, pays his rental and makes his annual report; but how shall the Governor or the public know that the provisions of the law have been fully complied with or at all observed within the walls of the prison? The means of obtaining information in this matter are at present very slender; and yet, it is the indis-

pensable duty of the State to see to it that its buildings and machinery, which have cost so much money, are properly guarded and taken care of, and to know that the prisoners are humanely treated, how they are fed and clothed, cared for in sickness, and supplied with spiritual instruction in the dying hour; and what is the character of the discipline employed, and how it is enforced, and what means are used, if any, for the reformation of the convicts. The provision made for this end (*General Statutes, chapter 85, section 10*) has not proved adequate to the purpose, and I recommend that it be so amended as to provide for the appointment of one Inspector, with a sufficient salary (instead of the three therein mentioned), who shall be in daily attendance in the prison, and whose duty it shall be to examine into all the matters connected with the government, discipline, and police of the Penitentiary, and make a report thereof every month to the Governor. Provision should also be made for the appointment of a physician and chaplain, whose salaries, as well as that of the Inspector, shall be paid out of the rental collected from the keeper. And, as one object had in view in the change proposed is that the government may benefit by the observations of intelligent men upon the management of the institution made from the different stand-points in which their several duties may place them, I think that all these officers should be appointed and subject to removal by the Governor, and be required to report to him statedly, or whenever he may require.

I also recommend that it be especially provided that no person shall be punished for a violation of the rules of the prison unless in the presence of either the Inspector or Physician, and that in every case such punishment shall be inflicted only by the keeper, or in obedience to his express order.

STRONG DRINK AT ELECTIONS.

Under the conviction that the greater part of the undue excitement, lawless violence, riots, and personal encounters, often ending in bloodshed, as well as the corruption of voters and fraud, which so frequently disgrace our popular elections, is attributable to the free use of intoxicating drinks, I recommend that a law be passed forbidding, under stringent penalties, the vending or giving to any person ardent spirits, or other intoxicating liquor, on the day of any public election, at or within a specified distance from any place of voting. The elective franchise is the most precious birthright of a freeman; its free and intelligent

exercise the highest privilege and most responsible duty of a citizen. And among the duties of government, none are of higher obligation or greater moment to the public welfare, or to the interest of civil and political liberty, than that of guarding against every impediment or improper influence which may tend either to embarrass or prevent the free and honest expression of the popular will. He that corrupts a citizen commits a crime against liberty. There is, I believe, no one cause which tends so much to disturb the peace and corrupt the purity of elections, as the indulgence in intoxicating drinks on such occasions. It is neither patriotism nor party zeal that collects those noisy, turbulent, and riotous crowds which surround the polls, and often by their violence prevent the peaceful, quiet citizen, from casting his vote; which makes the voting place an arena for the settlement of old feuds in bloody conflict and the occasion of new ones. It is the inspiration of strong drink, and many men seem to look forward to election day as an anniversary for such indulgence. The adoption of the measure proposed will do much to disperse these crowds and abolish the disorders, and also remove from the final day of canvass that degrading form of bribery—a cheap price at which so many venal votes are sold. No man should be permitted to use it as a corrupting element in the election; nor should licensed venders be allowed to profit on such occasions in its sale at such great cost and sacrifice to the public.

Such a law is now enforced with good results in other States, and in some of our local municipalities, and I recommend that it be extended to every election precinct in the State.

GEOLOGICAL SURVEY.

Under the law providing for the further prosecution of the Geological Survey of the State, I appointed, in June last, Professor N. S. SHALER, of Campbell county, as principal Geologist. On account, however, of his absence in Europe at the time of his appointment, he was not able to enter upon the duties of his office until August 23d, at which time the other officers provided for by law were also appointed by him, and their appointment concurred in by me. After the organization of the corps the Geological Survey of the eastern coal-field was at once resumed, and seven persons are now employed in the work—five in the field and two in the chemical laboratory—at the cost of about one thousand dollars per month for salaries, subsistence, and transportation.

The accompanying report of the superintendent of the Survey will exhibit his plans and estimates for the work which remains to be done.

